

**SOUTH CAROLINA  
SECOND INJURY FUND**

**ANNUAL REPORT**

**2006- 2007**

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## SOUTH CAROLINA WORKERS' COMPENSATION UNINSURED EMPLOYERS' FUND

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**SOUTH CAROLINA SECOND INJURY FUND**

**William E. Gunn**

**Interim Director**

## MISSION

The Second Injury Fund functions within the South Carolina Workers= Compensation System. The mission of the Fund is twofold:

1. To protect employers from the higher cost of insurance that can occur when an injury combines with a prior disability to result in substantially increased medical or disability costs than the accident alone would have produced. This ensures that an employer is not made to suffer a greater monetary loss or increased insurance costs because they hire or retain an employee who has a disability.

2. To ensure payment of workers= compensation benefits to injured employees whose employers have failed to comply with the coverage provisions of the Workers= Compensation Law.

## ORGANIZATIONAL VALUES

- Administer claims in a fair and impartial manner
- A highly professional and well-trained staff
- Continuous improvement of services

## GOALS AND OBJECTIVES

The performance expectations of the agency, as a whole, and of each individual are reviewed regularly to ensure that we continue to meet or exceed the goals and objectives outlined. These goals and objectives are directly related to the agency's organizational values.

### Goals

- To protect employers from increased workers' compensation insurance cost
- To ensure payment of workers' compensation benefits to injured employees whose employers are in violation of the Workers' Compensation Law

### Objectives

- Prompt determination of eligibility
- Efficient claims processing and payments
- Contain claims cost
- Sound fiscal management

## YEAR IN REVIEW

We accepted 887 claims, of these 63% or 560 were within 4 years of the date of accident. This ensures that these claims should not adversely affect the employers=workers= compensation insurance premium.

This year 870 employees benefited from the Uninsured Employers= Fund.

The Fund's major achievements for Fiscal Year 2007 are summarized below:

- **Customer satisfaction scores remained high**
- **Cycle time to pay claims is lowest when compared to "like" funds**
- **Annual assessment reduced by \$19 million**
- **Claim and administrative cost continue to be less than published average for the private sector and "like" funds**
- **Uninsured Employers' Fund payout reduced \$2.6 million by finding other coverage**

### Opportunities/Barriers:

The FY05 assessment of \$253 million levied in September 2005 was a shock to all carriers. The Budget and Control Board was asked to give some relief and a Joint Resolution was adopted by the General Assembly. The Fund ultimately reduced the assessment 30% to \$177 million. The assessment levied in September of 2006 was \$188.4 million. After considering the impact on the carriers and the Fund's projected payout for FY 2007, a decision was made to collect only 50% or \$94.2 million of the total assessment. These reductions should result in a more predictable assessment process for future years and eliminate the extreme peaks and valleys of past assessments.

This year's statistics show that the 2003 amendments to our law are finally having the results anticipated. The amendment did away with the "unknown condition" as a reason to meet the knowledge requirement. This can be seen in the reduction of accepted claims over the past four years. Of the 2,219 claims accepted in FY 2004, 1,964 or 88.8% were for the "unknown condition" compared to the 887 claims accepted in FY 2007 and only 389 or 43.8% being for the 'unknown condition'. We can expect further reductions in the acceptance of these type claims.

	FY 2004	FY 2005	FY 2006	FY 2007	% Reduced
Claims Accepted	2,219	1,922	1,184	887	60%

The total reimbursements for FY07 were down by 20% from FY06, \$118.2 million in FY07 versus \$147.6 million in FY06. We predict the reimbursements will continue to drop along with the number of claims accepted. We continue to have carriers

reopening claims that are many years old and providing documentation for acceptance. The result being of the 887 claims accepted in FY07, 327 claims or 37% were accepted more than 4 years from the date of accident. In these cases employers may not receive any benefit in the experience modification used in their premium calculation. (Figure 7.1-2)

The Workers' Compensation Reform Act (S. 332) was ratified and signed by the Governor in FY 2007. It included several changes that will affect the handling and administration of Uninsured Employers' Fund claims. These changes are those that affect all carriers and self-insured employers/funds that report and collect premiums and adjust workers compensation claims in South Carolina.

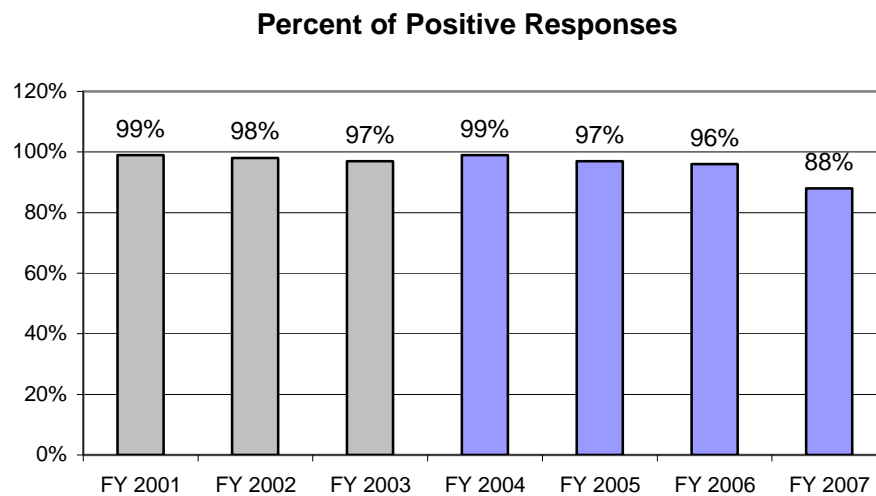
The major affect the Act has on the Fund is that we are put in "run-off" and will be terminated effective July 1, 2013. The following table is a brief outline of the events/actions and their effective dates as set out in the Act for the orderly termination of the Fund.

<b>Effective Date</b>	<b>Event/Action</b>
July 1, 2007	New notice requirements.
July 1, 2007	No claims accepted for arthritis or "Catch-all" paragraph 34 claims with date of injury of July 1, 2007, or after.
July 1, 2007	The 175% factor used in the assessment calculation reduced to 135%.
July 1, 2008	No claims accepted with date of injury of July 1, 2008, or after.
December 31, 2010	Last day to submit notice of a new claim.
July 1, 2011	All data to either accept, compromise or deny a claim must be received by the Fund.
December 31, 2011	Last day for the Fund to accept a claim for reimbursement.
July 1, 2013	The Uninsured Employers' Fund is transferred to the State Accident Fund.
July 1, 2013	The Second Injury Fund is terminated and all remaining obligations are transferred to the Budget and Control Board for the orderly winding down of the affairs of the Fund.

During this past year members of the General Assembly requested an audit of the Fund by the Legislative Audit Council (LAC). The requesters wanted to know if the Fund is meeting its goals and whether it should be continued. They also wanted to know whether the Fund has handled claims efficiently and in compliance with law. The LAC found that the Fund is not needed and should be phased out. They found no evidence that the Fund has an effect on promoting the hiring and retention of the disabled. Also, the Fund does not protect employers from increased workers' compensation costs. As the administrators of the Fund we took no position on the audit objective as to whether the Fund should be continued or phased out. However, we are pleased that the LAC's review of the Fund's claims management did not identify problems. They reviewed a random sample of 100 accepted and 25 denied claims and concluded that the Fund has adequate internal controls for processing claims. Also, they found no material problems with how the claims in their sample were handled. Evidence indicates the Fund is efficient in claims handling. Compared to states with similar funds, the Fund processes claims more quickly and at a lower average cost.

The Second Injury Fund has conducted an annual customer survey for the last five years to measure customer satisfaction. Customers evaluate our performance using a four point Liker Scale. Additional space is provided for written comments and to answer open-ended questions. We use this information to determine customer expectations and to gather recommendations on improving services. This information is compiled and trends are noted and distributed to all employees.

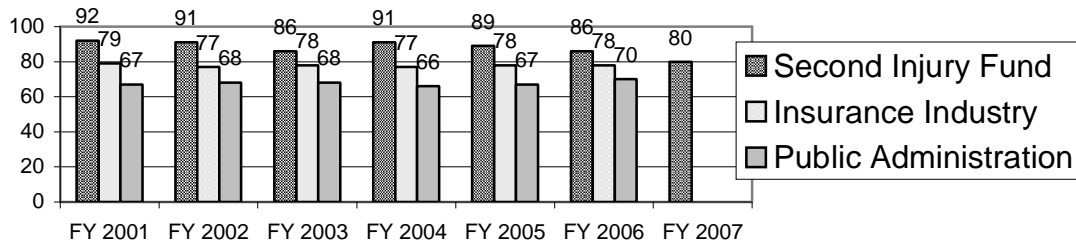
We use the percentage of positive responses to determine trends. The results for the past seven years are shown below:





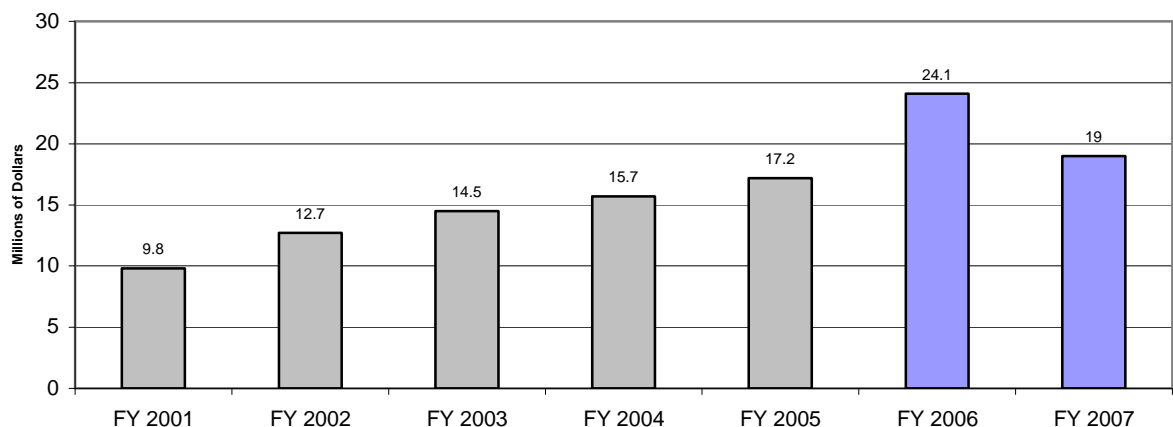
We compare our customers' satisfaction against the American Customer Satisfaction Index (ACSI) produced by the American Society for Quality. The index is nationally recognized and provides industry specific measures of customer satisfaction. The results of the customer survey are converted to a comparable scale of 0 –100 and then measured against the indexes of the insurance industry and public administration. The results indicate that the Second Injury Fund is exceeding the ACSI for both comparable industries. ACSI data not available for the Public Administration and the Insurance Industry for FY 2007.

**Customer Satisfaction Compared to ACSI**

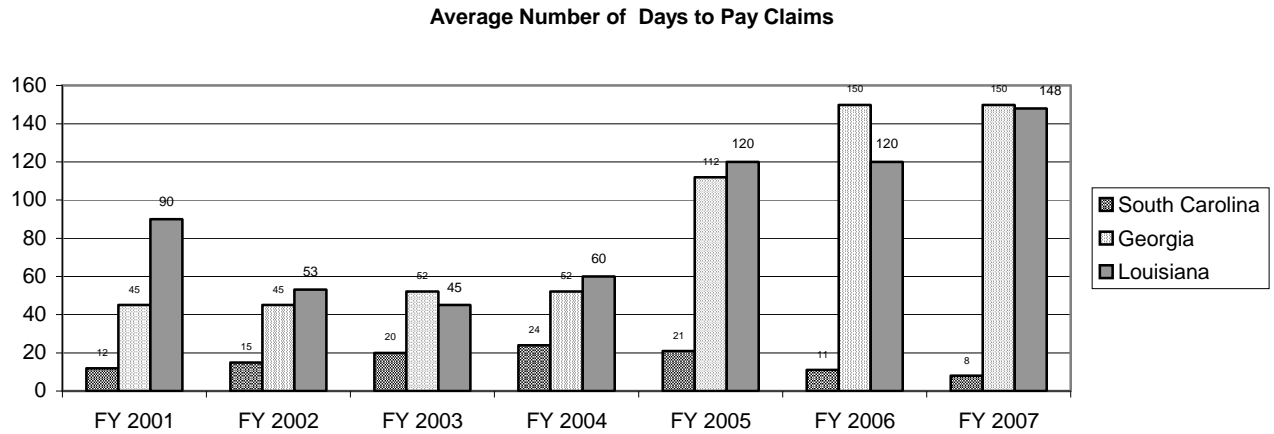


We measure the savings on the annual assessment caused by our internal review of reimbursements. By ensuring we only reimburse the amounts allowed by the Workers' Compensation Commission Medical Fee Schedule and compensation ordered we continue to have a positive effect on the assessment process. Our internal review of reimbursements led to a \$19 million reduction in the annual assessment for FY 2007.

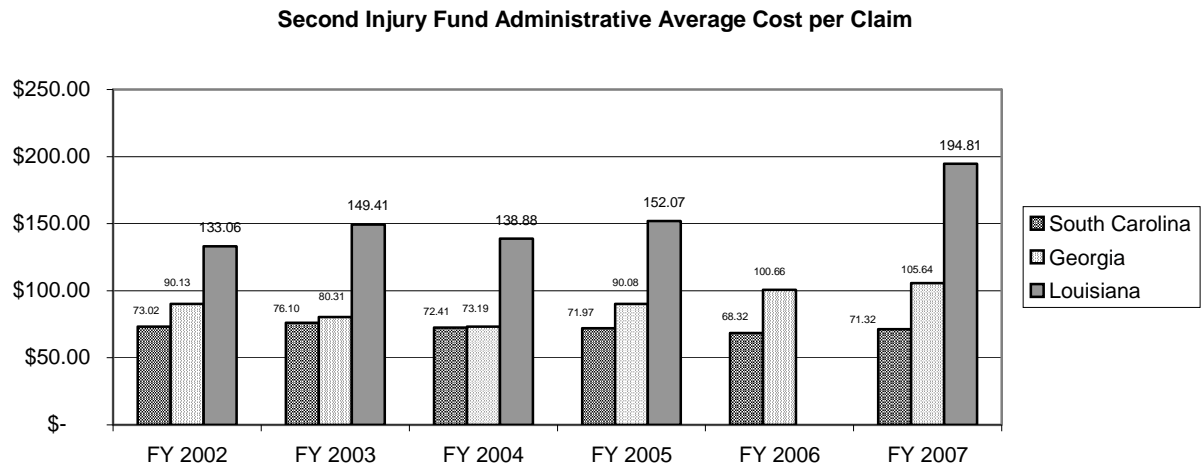
**Savings Achieved on Annual Assessment by Administrative Review**



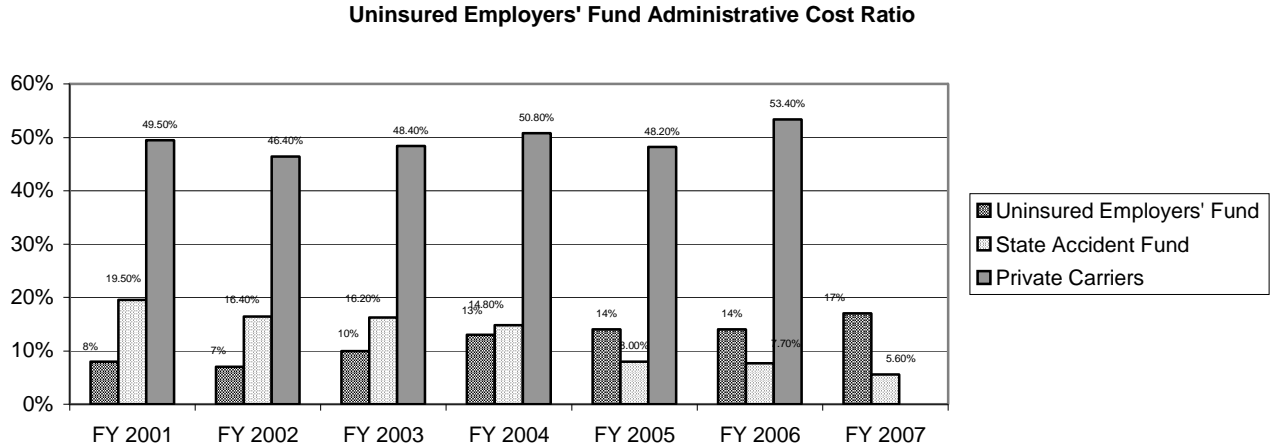
The Fund measures the number of days needed to process claim reimbursements. We compare our performance with “like” second injury funds in Georgia and Louisiana because their law is very similar to South Carolina Law. We have set the standard for the expeditious processing of claim payments.



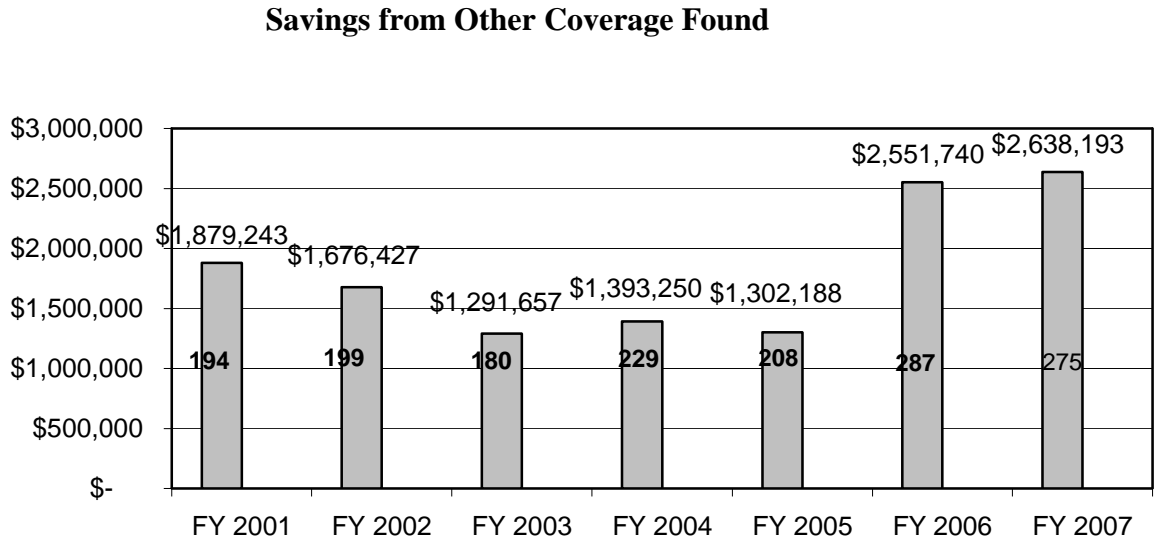
The chart below shows the Second Injury Fund’s average cost per claim compared to “like” funds from Georgia and Louisiana. Over the past six years we have set the standard. Louisiana data for FY 2006 not available.



We compare the Fund with private carriers and the State Accident Fund. We are meeting our expectations by keeping our cost ratio lower than that of the industry. FY 2007 data for private carriers is not available.



We must actively investigate all Uninsured Employers' Fund claims to ensure no other coverage is available to pay benefits to the injured employee, saving the Fund from these payments. The amount of funds saved by the investigation process that found 287 claims with other coverage.



## SECOND INJURY FUND

### Director

The administration and operation of the Fund is the responsibility of the director who is appointed by and serves at the pleasure of the Budget and Control Board.

### Deputy Director

Under the supervision and management of the deputy director are the Fund's four functional divisions.

### Claims

The Claims Division is responsible for the investigation, evaluation and development of action to reach a final decision for each claim. Conflicts of a non-judicial matter are resolved in the claims division.

### Recoveries

The Recoveries Division is responsible for the recoupment of all benefits, costs and expenses paid by the Uninsured Employers' Fund. These recoupments are levied against the employer or whoever was legally responsible for payment of the claim.

### Legal

The Legal Division represents the Fund in contested hearings before the Workers' Compensation Commission and in all appeals to higher courts.

### Administrative

The Administrative Division is responsible for all internal programs such as assessment, finance, budgeting, human resources and staff development. They are also responsible for all administrative support to the Director and the three divisions.

## KEY PERSONNEL

### OFFICE OF THE DIRECTOR

William E. Gunn, Interim Director

### DEPUTY DIRECTOR

Michael T. Harris, Deputy Director

### CLAIMS DIVISION

Peter J. Calamas, Jr., Director of Claims

### RECOVERIES DIVISION

Ann P. Corley, Director of Recoveries

### LEGAL DIVISION

Latonya D. Edwards, General Counsel

### ADMINISTRATIVE DIVISION

Deborah M. Manning, Administrative Manager

## STATUTORY AUTHORITY FOR THE AGENCY

Section 42-7-310 of the South Carolina Workers' Compensation Law creates the Fund and establishes the agency to administer the Fund in accordance with the provisions of Sections 42-9-400 and 42-9-410.

## CRITERIA FOR REIMBURSEMENT

Before the Fund can reimburse an employer, a disabled worker must suffer a subsequent injury. This injury must combine with or aggravate the prior permanent physical impairment, thus causing liability substantially greater than that which would have occurred from the subsequent injury alone. This is the basic concept of Second Injury Fund legislation, and without this substantial increase in liability, the employer has not been placed at a disadvantage. Therefore, he would not be eligible for reimbursement.

The following outline lists the basic requirements for reimbursement:

1. The employee must have a prior permanent physical impairment of such seriousness as to constitute a hindrance or obstacle to obtaining employment or re-employment.
2.
  - (a) The employer must prove that he had knowledge of the permanent physical impairment at the time the employee was hired or retained when a claim is made for reimbursement; or
  - (b) The employer may qualify for reimbursement if he can prove that he did not have prior knowledge of the employee's pre-existing physical impairment, because existence of such condition was concealed by the employee.
3. The employee must sustain a subsequent occupational injury:
  - (a) Which results in the employer's liability for disability and/or medical cost that is substantially greater than that which would have resulted from the new injury alone because of a combination with or aggravation of the prior impairment.
  - (b) Which most probably would not have occurred but for the presence of the prior impairment.
  - (c) Which results in death, and the death would not have occurred except for the pre-existing impairment.

4. Prior to reimbursement from the Fund, the insurer shall be required to certify that the medical and indemnity reserves have been reduced to the threshold limits of reimbursement.

FINANCIAL STATEMENT  
FISCAL YEAR 2006-2007

Balance from previous year.....\$72,661,396.93

Receipts

Investments.....\$3,556,893.09  
No Next-of-Kin Benefit.....\$43,121.72  
Assessments .....\$96,793,082.48  
Assessment Refund ..... (\$2,674,266.50)  
Miscellaneous..... -0-  
Other.....\$40,667.32

Total ..... \$97,759,498.11

Disbursements

Claims Paid by the Fund .....\$118,223,848.42  
Administrative Costs .....\$1,521,902.29

Total ..... \$119,745,750.71

Balance in Fund @ 30 June 2007 .....\$50,675,144.33  
(Including Fiscal Month 13)

CLAIMS ACTIVITY AGAINST SECOND INJURY FUND

Claims Carried from 2005-2006.....10,415  
New & Reopened Claims Filed  
    Against the Fund in 2006-07.....9,216  
Claims Closed ..... 11,701  
Claims Open at End of Fiscal Year 2006-07 ..... 7,930  
Total Number of SIF Claims Paid.....3,081  
Average Amount Paid Per Claim ..... \$38,371.91  
Total Number of Disbursements .....5,382

LAPSED DEATH BENEFITS PAID INTO FUND

Fatal Cases Reviewed.....	158
Recovery .....	\$43,121.72

## HEARINGS AND OTHER LEGAL PROCEEDINGS

Proceedings Attended.....	-0-
Hearings Against the Fund.....	165
Depositions.....	35

## ASSESSMENTS

Section 42-7-310 subsection (d) of the Workers' Compensation Laws of South Carolina states that:

The funding of the Second Injury Fund on a continuing basis shall be by equitable assessments upon each carrier (which, by definition herein, shall include all insurance carriers, self-insurers, and the State Accident Fund) in a manner as follows:

Equitable assessments upon each carrier which, as used in this section, includes all insurance carriers, self-insurers, and the State Accident Fund. Each carrier shall make payments to the fund in an amount equal to that proportion of one hundred thirty-five percent of the total disbursement made from the fund during the preceding fiscal year less the amount of net assets in the fund as of June thirtieth of the preceding fiscal year which the normalized premium of each carrier bore to the normalized premium of all carriers during the preceding calendar year. Each insurance carrier, self-insurer, and the State Accident Fund shall make payment based upon workers' compensation normalized premiums during the preceding calendar year. The charge to each insurance carrier is a charge based upon normalized premiums.

These assessments were sent to each carrier in September 2007 and payments subsequently received by the Second Injury Fund.

135% of the Disbursement is .....	\$161,656,763.46
Less Remaining Net Assets @ June 30, 2007 .....	\$50,675,144.33
Equals SIF Assessment for 2006-2007 .....	\$110,981,619.13

This assessment (\$110,981,619.13) divided by the aggregate normalized premium for all carriers (\$986,588,089.00) equals the assessment rate (.112490329) applied to each carrier.



SOUTH CAROLINA WORKERS' COMPENSATION UNINSURED  
EMPLOYERS' FUND

The State Workers' Compensation Insolvency Fund, S.C. Code Section 42-7-200, was established on February 24, 1982. On April 26, 1989, an amendment to this Act placed the administration of the Fund with the South Carolina Second Injury Fund. On June 12, 1990, it was changed to the South Carolina Workers' Compensation Uninsured Employers' Fund.

The mission of the Uninsured Employers' Fund is to ensure payment of workers' compensation benefits to injured employees whose employers have failed to acquire necessary coverage.

For a claim to come within the scope of the Uninsured Employers' Fund, there must first be a finding by the Workers' Compensation Commission that an employer is subject to and in violation of the Workers' Compensation Law as a result of their failure to provide the necessary insurance coverage. If that determination is made, the Fund may then consider the merits of an employee's claim and pay or defend the claim as it deems necessary. Once the Uninsured Employers' Fund has paid a claim, it is entitled by statute to recover the benefits, costs and expenses from the employer or whoever is legally responsible for payment.

UNINSURED EMPLOYERS' FUND FINANCIAL STATEMENT  
FISCAL YEAR 2006-2007

Balance From Previous Year.....\$227,174.16

Receipts

Appropriations Transfers.....\$7,400,000.00  
Recoupments .....\$768,206.43  
Miscellaneous.....\$138.50

Disbursements

Claims Paid by the Fund .....\$8,344,346.55

Balance in Fund @ 30 June 2007 .....\$51,172.54

(Including Fiscal Month 13)

#### CLAIMS ACTIVITY AGAINST UNINSURED EMPLOYERS' FUND

Claims Carried From 2005-2006.....	1,271
New & Reopened Claims Filed	
Against the Fund in 2006-07.....	440
Claims Closed .....	384
Claims Open at End of Fiscal Year 2006-07 .....	1,327
Total Number of UE Claims Paid .....	870
Average Amount Paid Per Claim .....	\$9,593.46
Total Number of Disbursements .....	7,817

#### HEARINGS AND OTHER LEGAL PROCEEDINGS

Proceedings Attended.....	673
Depositions.....	87